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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------------|---------------------|------------------|
| 09/955,798 | 09/19/2001 | Daniel Albertus Jozef Dijs | 2120/77997 | 1409 |

23552 7590 11/20/2003

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT PAPER NUMBER

1761

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/95598

Applicant(s)

DIJS

Examiner

S. WEINSTEIN

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ^{RESET} 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 25-37, 40-47 is/are pending in the application.
- Of the above claim(s) 40-47 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 25-37 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 8/11/03 & 11/7/03
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

This Office action is supplemental to the rejection mailed August 21, 2003. It was necessitated due to the fact that applicant filed a supplemental amendment on August 11, 2003 which crossed in the mails with the Office action mailed August 21, 2003.

The amendment filed August 11, 2003 has now been reviewed. Claims 25-37 remain pending in the application and have not been amended so that they appear in the same form as they appeared at the time of the Office action mailed August 21, 2003.

Claims 40 through 47, which are directed to method claims, have been withdrawn from further consideration as being drawn to a non-elected invention based on constructive election since the Rules for a Request for Continued Examination state that applicant may not switch inventions. See in this regard MPEP 706.07(h), page 700-95 and page 700.88. As noted in the last Office action, the method claims would also be separately classifiable and the article claims could be used in a process that does not require hot water under pressure to penetrate through the top sheet, sealing the peripheral sealing seam and a peripheral portion of the bottom sheet, etc. The pouch could be placed in a pot of boiling water.

Claims 25-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siccardi (Ep '55775) in view of applicant's admission of the prior art, further in view of Bosch-Siemens (De. 7430109), Illy et al (Ep. 710462), Bioemen (Belg. 620881), Cisaria (5,638,741), MacCorkell ('474), Blanc ('149), Illy ('694) and Grykiewicz et al ('787) and the newly cited references of the Carte Noire package with a date of July

1996 (Ex. A), the Ad. For Carte Noire dated March 31, 1995 (Ex. B), the Ad. For Gino Rossi in "Best Made in Italy" dated 1993 (Ex. I), the Ad in "Vending Magazine" dated 1995 (Ex. K), and the Ad. in "Tea and Coffee J." dated 1995 (Ex. L). The rejection is for the reason detailed in the Office actions mailed January 23, 2003, Paper No. 10 and August 21, 2003. The Carte Noire package, the Ad. for Carte Noire, Best Made In Italy, Vending Magazine and Tea and Coffee J., cited by applicant in an IDS filed November 7, 2003, are relied on as further evidence that coffee filter pouches having a pill shaped central portion surrounded by a flat annular sealing portion and dimensioned to be placed in a well of a coffee machine are notoriously old.

THE SHORTENED STATUTOR PERIOD FOR REPLY, SET IN THE OFFICE ACTION MAILED August 21, 2003, IS RESET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is (703) 308-0650. The examiner can generally be reached on Monday-Friday from 7:00 a.m. to 3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone numbers for the organization where this application is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

Application/Control Number: 09/955,798
Art Unit: 1761

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S. Weinstein/dh
November 18, 2003

Steve Weinstein
STEVE WEINSTEIN
PRIMARY EXAMINER 1761
11/19/03